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APPLICATION NO.	FII	LING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/695,182	10/28/2003		Volker Kronseder	30071/32009A	4300	
4743	7590	03/30/2006		EXAMINER		
MARSHA	LL, GERS	TEIN & BORU	HYLTON, ROE	HYLTON, ROBIN ANNETTE		
233 S. WAC	KER DRI	VE, SUITE 6300				
SEARS TO	WER		ART UNIT	PAPER NUMBER		
CHICAGO,	IL 60606	5	3727	• •		

DATE MAILED: 03/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No. Applicant(s)	
		10/695,182	KRONSEDER ET AL.
	Office Action Summary	Examiner	Art Unit
		Robin A. Hylton	3727
Period fo	The MAILING DATE of this communication app or Reply	ears on the cover sheet with the c	orrespondence address
WHIC - Externafter - If NC - Failu Any	ORTENED STATUTORY PERIOD FOR REPLY CHEVER IS LONGER, FROM THE MAILING DANSIONS of time may be available under the provisions of 37 CFR 1.13 SIX (6) MONTHS from the mailing date of this communication. operiod for reply is specified above, the maximum statutory period we are to reply within the set or extended period for reply will, by statute, reply received by the Office later than three months after the mailing ed patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim rill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONEI	lely filed the mailing date of this communication. (35 U.S.C. § 133).
Status			
1)	Responsive to communication(s) filed on 20 Ja	nuary 2006.	
		action is non-final.	
/=	Since this application is in condition for allowar		secution as to the merits is
,_	closed in accordance with the practice under E	·	
Dispositi	ion of Claims	, , . ,	,
· ·	Claim(s) <u>1,4,6-8,10-13,23,26,27,34,35 and 38</u>	s/are pending in the application	
	4a) Of the above claim(s) is/are withdraw	· · ·	
	Claim(s) is/are allowed.	m nom ocholacianom.	
·	Claim(s) <u>1,4,6-8,10-13,23,26,27,34,35 and 38</u>	s/are rejected	
	Claim(s) is/are objected to.	oraro rojectou.	
	Claim(s) are subject to restriction and/or	election requirement	
		oloollon roquitomoni.	
Applicati	on Papers		
	The specification is objected to by the Examine		
10)	The drawing(s) filed on is/are: a) acce	epted or b) \square objected to by the E	Examiner.
	Applicant may not request that any objection to the		
. —	Replacement drawing sheet(s) including the correcti	· · · · · · · · · · · · · · · · · · ·	
11)[_]	The oath or declaration is objected to by the Ex	aminer. Note the attached Office	Action or form PTO-152.
Priority ι	ınder 35 U.S.C. § 119		
	Acknowledgment is made of a claim for foreign All b) Some * c) None of:		-(d) or (f).
	1. Certified copies of the priority documents		an Na
	2. Conjugate the priority documents		
	3. Copies of the certified copies of the prior	•	o in this National Stage
* 0	application from the International Bureau	, , ,	u
	See the attached detailed Office action for a list of	or the certified copies not receive	a.
Attachmen	t(s)		
	e of References Cited (PTO-892)	4) Interview Summary	(PTO-413)
	e of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Da	te
	mation Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) Notice of Informal Pa	atent Application (PTO-152)
гаре	r No(s)/Mail Date	o) [

DETAILED ACTION

Claim Rejections - 35 USC § 103

- 1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- 2. Claims 1,4,6-8,10-13,23,26,27,34,35 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nieuwoldt (EP 0 816 248) in view of Krones (DE 298 12 169).

Nieuwoldt teaches a cover made of plastic or metal foil (page 4), attached to the cap top by "glueing, heat sealing, laser welding, or in any other suitable manner" (page 4), and having a pull tab in one embodiment (page 5). Nieuwoldt is silent regarding embossed aluminum foil.

Krones teaches it is known to provide a cover of embossed unlined, aluminum sheet 915 micrometers thick and embossed to a depth of 60-100 micrometers and attached with zonal adhesive. The drawing figures depict vermicular embossing.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the cover of Nieuwoldt of an unlined, aluminum sheet 9-15 micrometers thick and embossed to a depth of 60-100 micrometers and attached with zonal adhesive, the embossing being vermicular. Doing so is an obvious substitution of material, since aluminum is a metal and it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Regarding the zonal adhesive, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize any pattern of adhesive desired for the amount of force desired for removing the cover from the can.

Regarding the shape of the cover, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the cover of a polygonal shape since such a modification would have involved a mere change in the shape of a component. A

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change in shape is generally recognized as being within the level of ordinary skill in the art.

Doing so allows for using square covers and reduces the amount of material waste cutting round covers.

Response to Arguments

3. Applicant's arguments filed January 20, 2006 have been fully considered but they are not persuasive.

Applicant argues the German patent to Krones AG (DE 298 12 169) is not available prior art against the instant claims. However, the publication date of the reference is September 9, 1999, not October 14, 1999 as asserted by applicant. This is prior to the filing date of applicant's foreign priority document. See the international search report, the attached Derwent information document, and the front of the patent document all listing the publication date as September 6, 1999,

Wherein no other arguments are presented by applicant, the combination of reference is maintained to render the claims of the instant application obvious.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

- 5. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.
- 6. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

The U	I hereby certify that this correspondence for Application Serial No is being facsimile S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:	ed to
	Typed or printed name of person signing this certificate	
	Signature	
	Date	

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on (571) 272-4544.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199

Internet PTO-Home Page http://www.uspto.gov

RAH March 28, 2006

> Rebin A. Nylton Primary Examiner GAU 3727